STATE OF CALIFORNIA

PETE WILSON, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
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June 28, 1996

VIA FEDERAL EXPRESS

Office of the Secretary
Federal Communications Commission
1919 M St., N.W. Room 222
Washington, D.C. 20554

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Re: CC Docket No. 96-128

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Gentlemen:

Please find enclosed for filing an original plus fifteen copies of the COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA AND THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA ON THE NOTICE OF PROPOSED RULEMAKING in the above-referenced docket and a diskette containing the same

Also enclosed is an additional copy of this document. Please file-stamp this copy and return it to me in the enclosed, self-addressed postage pre-paid envelope

Yours truly,

Patrick S. Berdge

Patrick S. Berdge
Attorney for California

PSB:cdl

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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In the matter of	)	
	)	
Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-128

COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA AND THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA ON THE NOTICE OF PROPOSED RULEMAKING

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I. PREFATORY REMARKS

These comments reflect the existing telecommunications policy in California created before the CPUC had the benefit of Congressional direction from the Telecommunications Act of 1996 ("the Act"). The goals and time frames set forth in the Act are very ambitious. The CPUC would have preferred to have had more time to review the policy changes contemplated by the FCC in this NPRM and compare them with California's current policy of introducing competition to all segments of the its telecommunications market. Unfortunately, the CPUC received the NPRM some time after June 12, 1996, allowing it less than two weeks to prepare these comments. Because of this short review period, and because of California's open meeting laws which prohibit *ad hoc* meetings of more than two Commissioners or meetings *in seriatim*, the Commissioners have requested that these comments be placed on its next agenda, July 3, 1996, for full discussion. To the extent that the Commissioners may have any changes to these comments, they will be reflected in their July 15, 1996 reply comments.

II. SUMMARY

The People of the State of California and the Public Utilities Commission of the State of California ("California" or "CPUC") respectfully submit these comments on the Notice of Proposed Rulemaking ("NPRM") issued by the Federal Communications Commission ("FCC") relative to the implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996. Section 276 of the 1996 Act attempts to level the playing field in the provision of pay telephone service ("pay phones") by private pay phone owners ("PPOs"), local exchange carriers ("LECs"), Bell operating companies ("BOCs") and interexchange carriers ("IXCs") so that all are provided equal and nondiscriminatory access to the local network.

California believes that the proposals in the NPRM correctly interpret Section 276 of the Act and, therefore, the NPRM provides a valuable framework for the delivery of truly competitive pay phone services. California has implemented rules governing the service of 247,000 pay phones in the state. These existing state rules (adopted in CPUC Decision 90-06-018[1] and Resolution T-15782) address both the concerns of Congress, as set forth in the Act, and the concerns of the FCC, as described in the NPRM. California's pay phone rules have proven effective over the past seven years. They have provided California citizens with a valuable balance between increased pay phone competition and adequate consumer protection.

California's existing pay phone rules are the product of negotiations and settlement between interested parties in California. They are subject to update in California's pending proceedings intended to bring competition to all segments of its telecommunications markets. [2] Because of the proven efficacy of California's pay phone rules, we believe that state regulation in this area is in the best

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[1] 36 CPUC 2d 446.

[2] *Interim Rate Design* (IRD) D.94-09-065, ordering paragraph #24 through #33 and D.96-02-023 (IRD Rhg.) pp. 44-5.

interests of competition and the U.S. telephone consumer generally. Moreover, California contends that its experience in this area, and the rules it has adopted for California pay phones, can provide the FCC with valuable information and experience in its own regulation of pay phones nationally.

A. California's Pay Phone Rules

In its investigation into the operations and practices of coin and coinless customer-owned pay telephone service (I.88-04-029), the CPUC provided in its decision (D.90-06-018, *supra*), the following rules concerning pay phones:

1. All pay phones are required to give customers coin-free, cost-free access to 911 emergency, 411 directory assistance, 611 repair, pay phone provider's facilities for service, trouble, complaints, refunds and general assistance, utility operator for 0- dialing, 950-XXX, 800 XXX-XXXX, 10-XXX, and access to all coin and non-coin calling and local intraLATA toll and interLATA calling.

2. Each pay phone is required to have legible, understandable, and clearly displayed signs indicating cost, dialing instructions, and identification of the owner and carrier.

3. The decision requires the Customer Owned Pay Telephone (COPT) providers to reduce, from 25 cents to 20 cents, their previously authorized 25-cent charge for a local call placed from

a COPT. The LEC's local coin charge of 20 cents remains the same. This 20-cent local coin charge remains in effect for five years.[3]

4. COPTs are allowed to operate, store and forward pay phone sets in PacBell's, GTE's, and Contel's service territory, and are allowed to provide limited intraLATA operator and billing services. The current pay phone service charge on intraLATA non-sent-paid calls of is capped at 25 cents above the LEC rate.

5. COPT instruments are connected to PacBell's and GTE's network on an unbundled basis, to the extent feasible. This unbundling provision was designed to improve the quality of COPT service.

III. BACKGROUND

A. California's Ten Years Experience with Rules Governing Pay Phone Services

In 1985, the CPUC authorized the entry of private pay phones into the market, thus creating competition for incumbent LECs. Since 1985, there has been a significant increase in the number of PPO pay phones, with

[3] Although this five-year limit has expired, no party to the COPT proceeding (D.96-06-018, *infra.* at p.4) has filed an application with the CPUC to raise the rate cap.

approximately 75,000 currently deployed in California. The Commission notes that since 1990, the majority of new PPO's have been located in areas not previously served by LECs. This is an example of how the introduction of competition has served to expand consumer choices while simultaneously serving the interests of consumers. This clearly has benefited Californians. Of the nearly 247,000 pay phones in California, approximately 75,000 are privately owned, 32,000 are GTE-owned and 140,000 are Pacific Bell-owned.

This rapid development of the private pay phone market has required the CPUC to be vigilant in establishing fair but competitive prices and compensation while promoting necessary customer safeguards. The CPUC has carefully balanced the interests of PPOs and the providers of local, intraLATA and interLATA service to avoid anti-competitive behavior. Particularly, the CPUC has instituted customer safeguard programs to enforce rules pertaining to pricing and service. This is funded by a surcharge on all privately owned pay phones.[4] This enforcement program ensures that standard operational and signage requirements and rate ceilings for pay phones are met by PPOs. In addition, the CPUC oversees and approves tariff offerings and per call compensation

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[4] The CPUC program for oversight of pay phone services is known as the Coin Operated Pay Telephone (COPT) Enforcement Program. This program is supported by a surcharge levied on each PPO provided pay phone in California. The surcharge is collected by Pacific Bell as part of the COPT tariff and remitted to the non-profit COPT Enforcement Program. The Enforcement Program is responsible for oversight for compliance with LEC tariffs and for education of PPOs and consumers.

provided to PPOs by BOCs and other LECs for connecting the PPOs to the switched network. In reviewing the LECs' own pay phones, the CPUC has been careful to ensure that all LECs do not engage in anti-competitive behavior in the pricing of LEC pay phone service.

Standardizing the rules governing all pay phones is paramount. All pay phone owners must disclose rates, as well as the terms and conditions of service, plus they must be able to handle emergency calls and service problems. This requires a high degree of enforcement that can be supplied only by the states.

B. California's Experience With Customer Safeguards

California's current customer safeguards were introduced in D.90-06-018 (36 CPUC 2d 446), *supra.* In addition to the provisions previously mentioned, each pay phone must have clear signage, dialing instructions, and rate quotes, and must afford the user the ability to access the pay phone owner. The CPUC has authorized the provision of 0- calls from PPO pay phones.[5] Further, privately owned pay phones must provide 911 connections for emergency services. Moreover, California has instituted a system of pay phone rate caps, agreed to by the PPOs and LECs, which provide that:

- Local coin calls are priced at a maximum of $0.20 for a minimum duration of 15 minutes,

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[5] IRD Decision, *supra,* D.94-09-065, ordering paragraph #26 at p. 340, effective January 1, 1995.

- Non-coin intraLATA calls are priced at the local LEC's rate plus an optional $0.25 "pay station service charge" (PSSC),
- intraLATA coin calls are priced at a maximum of the local LEC's rate plus $0.10 per call,
- interLATA intrastate calls are priced at a maximum of AT&T charges plus $0.10 per call except when the call originates from an equal access pay phone (in that case rates charged for interLATA intrastate calls may be 10% above AT&T's charges),
- These rate caps do not apply to calls completed via an access line to a specified carrier, a travel card or a debit card, and
- The rate cap for an interLATA directory assistance call from a pay phone is the rate charged by AT&T for a similar call.

C. California's Experience With Per Call Compensation

Section 276 (b)(1)(A) of the Act requires that all pay phone service providers are fairly compensated for each and every completed intrastate and interstate call from their pay phone. California has already taken a major step in implementing this principle. The CPUC has instituted a "pay station service charge" (PSSC) requiring that each LEC and AT&T [6] provide $0.25 per call (less a processing charge) to each PPO whose pay phone originates a non-coin intraLATA call. However, in its present configuration, this system excludes 1-800

[6] Sprint and MCI are required to implement the PSSC within a reasonable period of time.

and debit card calls, and is only applicable to IXCs that carry more than 3% of the intraLATA traffic in the state.

D. California's Experience With Public Interest Pay Phones

Section 276 (b)(2) of the Act requires that the FCC determine whether the public interest demands the maintenance of public interest pay phones. California has in place rules regarding locating, funding and administering public interest pay phones. The program, known as "public policy pay phones," was developed by a coalition of LECs, IXCs, consumer groups, PPOs and adopted by the CPUC in D.90-06-018, *supra*. The program is set forth at page 20, *infra*.

IV. DISCUSSION

A. Compensation for Each And Every Completed Intrastate And Interstate Call Using A Pay Phone Through "Per Call Compensation"

Section 276 (b)(1)(A) of the Act provides that all pay phone providers *must be fairly compensated for each and every completed call originated on their* pay phones except for emergency calls and telecommunications relay calls for the hearing disabled. In general, California agrees with the NPRM that states should have the ability to determine the plan for per call compensation based upon their knowledge of local conditions.[7] In California, as with a number of other states, this includes a movement towards competitive telecommunications markets in general, and deregulation of pay phones in particular. California also agrees that the FCC need not prescribe per-call compensation for 0+ calls because existing "competition in this area ensures 'fair' compensation for Pay Phone Service Providers (PSPs)." [8]

The FCC asks, "whether the states' setting of the rates for local coin calls subject to complaint or petition would be consistent with Section 276's mandate that the Commission ensure fair compensation for 'each and every completed intrastate and interstate call' . . . ". [9] The CPUC has demonstrated that California has ensured fair compensation for all PPOs for calls from their pay phones on a tariffed basis, i.e., based on contracts with LECs, as well as on an individual call basis for intraLATA calls. Given its experience with PPOs, California sees no reason to conclude that the states could not fully ensure fair compensation to PPOs for "each and every completed intrastate and interstate call." The FCC also asks what complaint or petition process it should adopt should it "ultimately

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[7] NPRM ¶ 22 at p. 13, "The Commission has long recognized the interest of the states in setting end-user rates for local calls, including rates for 411 calls. Indeed . . . the states have long had a traditional and primary role in regulating payphones. The states have a significant interest in setting local call rates paid by end users, because payphones are used by some residents as a substitute for local telephone service, in addition to being used by visitors and retail customers."

[8] NPRM ¶ 16 at pp. 10-11.

[9] *Ibid.*

determine to defer to the states in setting payphone rates." [10] The CPUC submits that any review process must depend on the constitutions of the various states and the procedural safeguards developed by them. It would be inappropriate for the FCC to preempt these considerations It may be appropriate, however, for the FCC to require that the states develop a review process, if one is not already in place, within a specified period of time

As for interstate calls, California looks forward to working with interested parties, with guidance provided from the FCC, in establishing fair per call compensation for each and every completed interstate call. In the intraLATA market in California, both incumbent providers and new entrants (IXCs and CLCs) will be required to provide per call compensation to all PSPs. In the interLATA market the playing field must be leveled to permit the tracking of all calls originating from pay phones so that the PSPs may be compensated for all completed calls.

In both intraLATA and interLATA markets the pay phone user (at equal access pay phones) has the ability to "dial around" the presubscribed IXC through the use of access codes (10xxx and 1-800 calls). For intraLATA calls completed by an IXC, California requires, even now, per call compensation to the PSP as previously described. However, for interLATA calls that are "dialed around," California presently has no mechanism to compensate the PSP. California agrees with the FCC that there exists an ability to track interLATA calls

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[10] NPRM ¶ 22 at p. 13.

initiated through pay phones with the use of automatic number identification (ANI).[11] The ANI can provide the basis for developing a system of per call compensation for "dialed around" interLATA calls that could be modeled on California's PSSC for non-coin intraLATA calls

To the extent that ANI or similar tracking does not provide sufficient information to identify each pay phone call, the CPUC supports a representative fixed use fee or surrogate in lieu of actual tracked costs. This fixed use fee should be set by the states. Finally, the CPUC agrees with the FCC that it should prescribe minimum standards for determining fair compensation for subscriber 800 calls that may be implemented by the states.[12]

California has experience in developing solutions to problems pertaining to per call compensation for PSPs. Because of its thorough knowledge of local conditions and problems, and with the help of telecommunications providers, California has produced a preliminary but workable compensation system for pay phones. Ultimately, these problems are best addressed on a statewide basis under guidelines adopted by the FCC under the Act.

B. State Preemption

Section 276 (c) provides that "[t]o the extent that any State requirements are inconsistent with the Commission's regulations, the Commission's

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[11] NPRM ¶ 31 at p. 17.

[12] NPRM ¶ 17 at p. 11.

regulations on such matters shall preempt such State requirements." The NPRM proposes three options for ensuring fair compensation for pay telephone calls. The first option would set a nationwide local coin rate for all calls originated by pay phones.[13] California opposes this flat nationwide rate. This would undoubtedly raise pay phone rates for California customers. Moreover, it would nullify the agreements that the LECs, IXCs, PPOs, consumer groups, and the CPUC have achieved in providing fair compensation to PSPs in California. Further, California contends that such a broad brush, generic approach could have potential anti-competitive effects in the delivery of pay phone service by driving out smaller PSPs in the scramble for significantly higher rates mandated by the FCC. Rather than carefully adjusting rates to suit specific markets, this flat nationwide rate would deny customers in states with lower costs the benefits of competition and the concomitant reduction in pay phone rates. Such a rate would not be fair to pay phone customers.

As a second option, the FCC proposes to prescribe specific national guidelines that states would use to establish a local rate which would ensure that PSPs are fairly compensated. And as a third option, the FCC proposes to permit states to continue to set coin rates for local pay phone calls within their discretion. The CPUC proposes a hybrid of the FCC's second and third options.

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[13] NPRM ¶ 20 through ¶ 22 at pp. 12-13

The CPUC believes that the states would benefit from an exercise of FCC jurisdiction which would allow the states a maximum of participation while ensuring, across the nation, fair compensation to PPOs for "each and every" completed pay phone call as mandated under section 276 of the Act. The states would benefit from FCC guidelines that prescribe a "per-call" pricing methodology for determining fair compensation for PPOs generally. In this fashion, the FCC would continue to "recognize the [significant] interest of the states in setting end-user rates for local calls, including rates for 411 calls." [14] Furthermore, this hybrid proposal would permit the states to tailor pay phone rates and service to meet the acknowledged local interests while still ensuring fair per call compensation to PPOs.

C. "Carrier-pays" versus "Set Use Fee" Mechanisms for Payment of Charges Due PPOs

The CPUC agrees with the FCC that the "carrier-pays" system is superior to the "set use fee" system because "it would result in less transaction costs because the IXC could aggregate its payments to payphone providers."[15] The CPUC also agrees that avoiding having these charges added to a large number of individual callers' telephone bills is particularly advantageous. California's

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[14] NPRM ¶ 22 at p. 13. "The states have a significant interest in setting local call rates paid by end users, because payphones are used by some residents as a substitute for local telephone service, in addition to being used by visitors and retail customers." (*Ibid.*)

[15] NPRM ¶ 28 at pp. 15-16.

PSSC[16] should not be considered to be inconsistent with the "carrier-pays" system. The PSSC applies only to non-coin calls from pay phones such as credit card and collect calls. It is not designed as a general mechanism, as is the "carrier-pays" system, to reimburse PPOs for all completed pay phone calls.

D. Termination of All Subsidies for LEC Pay Phones

Section 276 (b)(1)(B) of the Act provides that all pay phone subsidies, including subsidies from basic exchange and exchange access, must be discontinued. These subsidies will be replaced by fair and adequate per call compensation for PPOs. The CPUC agrees that a level playing field must be established through: 1) transferring pay phones from regulated to nonregulated operations so that pay phone assets become defined generally in terms of customer premises equipment (CPE) deregulation,[17] and 2) requiring incumbent LECs to offer individual central office coin transmission services to all PSPs under a nondiscriminatory tariffed offering.[18] These steps remove any cost advantages that may have been enjoyed by the LECs in using "dumb" pay phones.[19]

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[16] See pp. 7-8, *supra*.

[17] NPRM ¶ 49 at p. 28.

[18] NPRM ¶ 47 at pp. 26-7.

[19] "Smart" pay phones have ability to store billing information and rate telephone calls and complete 0+ calls without a live operator "Dumb" pay phones rely on the CO equipment and operator services.

1. Removing pay phones from the CCL charge

The FCC has asked for comments on its tentative conclusion that, to avoid discrimination among pay phone providers, LEC pay phones costs should be removed from the Common Carrier Line (CCL) charge. This is premised on the fact that while the Subscriber Line Charge (SLC) has been paid by the PPOs, the LECs have not paid this charge "because the subscriber lines connected to LEC pay phones have been recovered entirely through the CCL charge."[20] The CPUC is concerned that if the LECs do not have the ability to recover interstate costs of subscriber lines, because CCL mechanisms are removed, there may be a question of whether the current $0.20 charge for local coin pay phone calls and the PSSC for intraLATA calls will fully recover cost. This requires investigation that is locality specific because of the unique cost structure associated with the California pay phone industry.

2. Deregulation of AT&T pay phones

California agrees with the FCC that consistency and the Act itself require that AT&T pay phones, like those of incumbent LECs, should be deregulated and treated as CPE.[21]

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[20] NPRM ¶ 53 at p.30.

[21] NPRM ¶ 56 at p.31.

3. Tariffs for unbundled pay phone service

The CPUC agrees with the FCC that all LECs must begin offering pay phone service to PPOs pursuant to tariffs.[22] In this way, when LEC pay phones are separated and become competitive, the LECs will have to formulate a nondiscriminatory unbundled tariff for their own use and the use of any PSP. The CPUC also agrees with the FCC that pay phone tariffs would fall under new services which must be justified with cost studies.[23]

The CPUC also agrees with the principle that incumbent LECs should be required to remove "from regulated intrastate and interstate rate structures of all charges that recover the costs of payphones."[24] California believes that implementing this principle is best left to the states and that permitting the states to "formulate their own mechanisms for achieving this result within a specific time frame" is "consistent with the statute as well as [being] preferable from a policy perspective . . . ".[25]

California agrees that these changes should be made although it will require expansion of California's COPT enforcement effort which is currently funded by a surcharge on the tariffs of all pay phones. The move toward a truly

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[22] NPRM ¶ 45 at p. 25.

[23] NPRM ¶ 46 at pp. 25-6.

[24] NPRM ¶ 51 at p. 29.

[25] NPRM ¶ 52 at p. 29.

competitive pay phone market in California must place all providers on an equal footing and subject all PSPs (LEC and PPO alike) to enforcement oversight and payments for the support of public interest pay phones statewide.

E. Nonstructural Safeguards for BOC Pay Phones

Section 276 (b)(1)(C) of the Act requires implementation of a set of nonstructural safeguards for BOCs equal to those adopted in the FCC's Computer Inquiry - III (CC Docket No. 90-623) proceeding. These safeguards are designed to prevent cross-subsidization by BOCs which would have anti-competitive effects. Such safeguards have proven successful in the delivery of enhanced services. California supports them

More specifically, the FCC currently regulates the provision of BOC enhanced services through comparably efficient interconnection (CEI). The FCC seeks comment as to whether CEI would be applicable and provide a workable solution to BOC provision of pay phone service on a nondiscriminatory basis.[26] The CPUC supports each of the itemized requirements of CEI for pay phones.[27] The purpose of each, in whole and in part, is to assure equal access to the network by *all* providers of pay phones.[28] The CPUC agrees that these

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[26] NPRM ¶ 60 at p. 34.

[27] NPRM ¶ 61 through ¶ 65 at pp. 34-7. (1) Interface functionality; (2) Technical Characteristics; (3) Installation, Maintenance, and Repair; (4) Resale; (5) End User Access; (6) CEI Availability; and (7) Minimization of Transport Costs.

[28] The CPUC agrees that "incumbent LECs must make payphone services available to customers on an individual, unbundled basis." (NPRM ¶ 62 at p. 35.)

requirements are essential for the full development of fair and open competition in the delivery of pay phone services.

F. Rules Permitting the BOCs to Negotiate with the Pay Phone Location Provider for the Selection of interLATA Carriers

Section 276 (b)(1)(D) of the Act provides that BOCs must be granted the same rights as PPOs to negotiate with location providers to select interLATA service carriers unless the FCC determines that this is not in the public interest. The CPUC agrees that equal access to the network should also include BOC selection of interLATA carriers. The nonstructural safeguards and CEI provide significant protections against anti-competitive behavior on the part of the LECs. However, the name recognition of BOCs, and perhaps GTE, may give them a real advantage in negotiating better contract terms from interLATA carriers. Moreover, as the FCC has noted, there is the concern that the BOCs might direct this business to themselves or give more favorable interLATA rates to their own pay phone operations than to those of their pay phone competitors.[29] Therefore, the CPUC cannot state categorically that the nonstructural safeguards and CEI will be sufficient to prevent anti-competitive abuses by the BOCs.[30] However, the fact that the FCC will require quarterly, semi-annual and annual reports by BOCs

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[29] NPRM ¶ 72 at p. 39.

[30] *Ibid.*

on the implementation of nondiscriminatory pay phone services,[31] should provide adequate notice of anti-competitive abuses. If abuses are discovered the states may adopt rules designed to prevent BOCs from giving more favorable interLATA rates to their own pay phone operations or other similar anti-competitive behavior.[32]

G. Ability of Pay Phone Service Providers to Negotiate with Location Providers on the Presubscribed intraLATA Carrier

Section 276 (b)(1)(E) of the Act directs that all pay phone service providers, PPO and LEC alike, must be permitted to negotiate with the location provider in selecting an intraLATA carrier. California believes that it is very important that every intraLATA provider, presubscribed to a pay phone, meet the FCC's proposed minimum standards which would require the provider to route and handle 911 emergency calls. This is essential for the health and welfare of the citizens of each state. California already requires that each pay phone provider have the capability of routing and handling 911 emergency calls. The CPUC is satisfied that the FCC has concluded, albeit tentatively, that each such intraLATA carrier presubscribed to a pay phone must meet this minimum standard. Additionally, California would suggest that the minimum standards be broadened to include access to 411 directory assistance and 611 repair calls.

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[31] NPRM ¶ 65 at pp. 36-7.

[32] NPRM ¶ 72 at p. 39.

H. Establishment of Public Interest Pay Phones

Section 276 (b)(2) of the Act requires that the FCC determine whether public interest pay phones, provided in the interest of public health, safety, and welfare, in locations where there would otherwise not be a pay phone, should be maintained, and if so, the FCC should ensure that such pay phones are supported fairly and equitably. California's response is apparent from its present rules. At certain locations, although revenues are not sufficient to cover the costs of a pay phone, California's Universal Service rules require that LECs maintain "public policy" pay phones.

These rules were developed by a coalition of LECs, IXCs, consumer groups, and PPOs and adopted by the CPUC in D.90-06-018, *supra*. California's program requires that: (1) a selected committee evaluate the need for pay phones at locations where they do not already exist; (2) the LECs install and maintain these pay phones with the acknowledgment that revenues will not cover costs of installation and operation; (3) all PPOs support these pay phones through a monthly rate charged to connect their pay phones to the network; and (4) all LECs with pay phones support these pay phones with a contribution from their competitive public and semi-public pay phones. The costs of supporting these public interest pay phones are borne not by the general body of ratepayers but, instead, by the pay phone industry as a whole. California strongly supports public interest pay phones.

Further, the CPUC urges the FCC to allow the states the flexibility to develop their own public interest pay phone programs much like California has. Any national guidelines should incorporate this flexibility.[33] Any guidelines adopted by the FCC should provide only a basic framework on which the states may build their own program. The guidelines, however, should provide a public interest pay phone safety net.

I. Letterless Keypads

The CPUC supports the FCC's conclusion that pay phone keypads which do not have letters on the number buttons frustrates the congressional intent to promote competition among payphone service providers and the widespread deployment of payphone services to the benefit of the general public.[34] The CPUC agrees that letterless keypads "violate both TOCSIA [Telephone Operator Consumer Services Improvement Act] and the 1996 Act by preventing callers from accessing their OSP [Operator Services Provider] of choice." [35]

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[33] NPRM ¶ 79 through ¶ 82 at pp. 41-3.

[34] NPRM ¶ 85 through ¶ 87 at pp. 43-4.

[35] *Id.*, ¶ 87 at p. 44

V. CONCLUSION

For the reasons stated, the CPUC urges the FCC to allow states flexibility in adopting rules for their pay phone market that reflect the goals stated in Section 276 of the Act.

Dated: June 28, 1996

Respectfully submitted,

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